

## **REMARKS**

In the claims, claims 1, 6, 15, 22, 27, 34 and 37 are amended. Independent claims 1, 15, 22, 27, 34 and 37 are amended to clarify the term “claim adjudication system for pharmacy benefit claims” as supported in the specification, including paragraph [0008]. As such, the claim adjudication system is for adjudicating pharmacy benefit claims under patient drug plans.

Claim 6 is amended to correct an apparent informality, replacing an occurrence of “prescriber” with “prescribers”.

### ***Status of the Application***

1. Claims 1-38 have been examined in this application in response to communications filed July 19, 2007.

### ***Claim Objections***

2. **Claim 6** is objected to because of an informality. An occurrence of the term “prescriber” has been amended to “prescribers” to address the objection.

### ***Rejections under 35 USC § 103***

3. **Claims 1-2, 4-12, 14-22, 24-27, 29-34 and 36-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 6,496,804 to McEvoy in view of US Patent Application Publication 2005/0033639 to Myers and in further view of US Patent Number 5,832,449 to Cunningham (from the applicant's Information Disclosure Statement (IDS)).

4. **Claim 3** stands rejected under 35 U.S.C. 103(a) as being unpatentable over McEvoy in view of Myers and Cunningham as applied to Claim 2 above, and in further view of US Patent Number 5,666,490 to Gillings.

(B) As per claims 23, 28 and 35, these claims repeat features previously addressed in the rejection of claims 1-14 and are rejected on the same basis.

5. **Claim 13** stands rejected under 35 U.S.C. 103(a) as being unpatentable over McEvoy in view of Myers and Cunningham, as applied to Claim 1, above.

Applicant traverses each of the rejections and requests reconsideration.

### ***Argument***

The Examiner's response to previous arguments states that the cited references, when combined, teach a “claims adjudication system for pharmacy benefits to process a pharmacy's

claim to distribute pharmaceutical drug samples” (Emphasis added). Applicant questions whether claim 1, among the other independent claims, was inadvertently misunderstood. As such, clarifying amendments are made to reinforce the true meaning of the claim as originally filed.

Importantly, the pharmacy benefit claims and the associated claims adjudication system refer to a patients’ benefit claims under an applicable patient insurance plan. The claims adjudication system processes pharmacy benefit claims for patients according to their respective insurance drug plans. When combined, the cited references do not teach or suggest such a claims adjudication system. None of the systems therein relates to insurance claim processing at all.

As amended, claim 1 describes a claims adjudication operation that is performed “at a claim adjudication system for adjudicating pharmacy benefit claims under patient drug plans”.

As described in the specification and as would be understood to a person of ordinary skill in the art, the terms “adjudication” “claim” and “benefit” relate to processing insurance benefit claims for (partial or complete) coverage for prescription drug costs to the patient. See in particular paragraphs [0008] to [0010] of the current application.

In association with the dispensing of samples, the pharmacy presents a claim to the same claim adjudication system for pharmacy benefits (i.e. drug plan benefits) as it would submit a patient’s normal claims for prescriptions. In this way, the sample distribution reimbursement operations and any data collection operations and value-added pharmacy services (e.g. as per claim 8, formulary management services and drug utilization review (DUR) services) can be provided in a manner that exists for prescribed drugs.

The patient gets the drug but does not pay for it. The pharmacist gets reimbursed in a trusted manner as exists for the current distribution of drugs under prescription drug insurance plans. Data is collected by a system that already functions to do so. By integrating into the claims adjudication system, numerous technical issues need not be re-solved and few operational changes at the pharmacy are required. Patients also receive drugs that have not traveled through existing sample distribution channels and may receive additional services, particularly drug utilization review services, from the pharmacist that they would not otherwise be able to receive in association with the distribution of the drug sample.

None of the cited art and in particular McEvoy, Myers, Cunningham and Gillings teach

or suggest using a claims adjudication system for adjudicating pharmacy benefit claims under patient drug plans to process a claim to distribute pharmaceutical drug samples.

The argument above may be applied to each of the claims of the present application and even though such claims may include additional patentable subject matter, for this reason alone applicant submits all of the claims are allowable.

***Summary and Telephone Interview Request***

Applicant submits that the Examiner's cited references neither alone, nor in combination, disclose the Applicant's invention as presently claimed. For all of the reasons set out above, Applicant respectfully submits that the application in its present form is in condition for allowance and action toward that goal is respectfully requested.

The Examiner is kindly invited to contact applicant's attorney Jonathan Pollack at 416.862.5405 to discuss the foregoing prior to issuing any further office action.

Date: October 29, 2007

Respectfully submitted,

/Jonathan Pollack/

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